

Signing away your savings

Joint bank accounts are increasingly being used to defraud seniors and effectively rewrite wills

by Risha Gotlieb on Friday, March 25, 2011

At 85 and with failing eyesight, Donna (not her real name) was relieved when her daughter returned to Toronto to assist her. Eventually, she added her daughter's name to her bank accounts to facilitate bill payments. A year and a half later, Donna's eldest son, who works overseas, hired Jayne-Ann Steele, a long-term care specialist, to surrogate some of his sister's duties. "One day Donna asked me to read her bank statements aloud," says Steele. "She was shocked when I read out the huge sums of money being withdrawn like clockwork every month—to the tune of over \$200,000" in the span of 18 months. When I saw her daughter's name beside hers, I instinctively knew who was taking the money." Today Donna no longer speaks to her daughter. She must rely on her other three children to subsidize her retirement expenses. "These families never recover from the betrayal," says Steele.

Joint bank accounts are increasingly being used as a vehicle to defraud Canadian seniors. Although the banking industry recognizes the problem, most banks do little to curtail it, say experts. Toronto lawyer Jan Goddard, an estate and elder law specialist, says banks are making it dangerously easy for their senior clients to add others to their accounts. In fact, sometimes the bank staff "steers" them into this arrangement, she says, because they recognize they need help with the simplest of banking tasks. (Raising the question: are seniors giving informed consent if they can't even decipher a bank statement?) It's a process that can take mere minutes, ruin lives, and yet seniors may be encouraged to do it without the benefit of legal advice.

Often aging parents are adding adult children to their accounts simply to assist with the logistics of bill payments and managing the account. "The child knows this is the parent's intent and so does the bank, yet the bank forms proclaim that the asset in the account is equally and rightfully the property of the child,"

explains Goddard. In a recent joint account case Goddard is litigating, the grandchildren are alleged to have absconded with \$650,000.

Kelly D'Amour, an investment sales coach with Scotiabank, says her bank is educating its staff and customers to recognize the pitfalls of joint accounts. "There are many types of joint accounts," she explains, "but the most commonly used is called joint tenants with right of survivorship." This means two or more people have the same cheque-writing and withdrawal privileges, and if one of the account holders dies, the other automatically obtains ownership of the account long before the deceased's estate is settled. In the wrong hands, says D'Amour, a joint account is "the perfect vehicle" for an adult child to abscond with savings from the estate. "It's a backdoor method of rewriting the parent's will."

Douglas Melville, Canada's ombudsman for banking services and investments, who investigates public complaints, acknowledges that abuse of joint accounts is a growing problem. "Many Canadians don't understand that once you add your adult children to your account, it's legally as much their money as it is yours." Some say that it's wise to avoid joint accounts altogether, because your money and your adult child's personal life become legally entangled. According to Michael Solnes, a financial planner in Vancouver, "If your child's marriage goes off the rails, their ex can now make a claim on the senior's joint account. If your child owes money to creditors or is successfully sued, your money can be garnished or seized."

Judith Milliken, a Vancouver lawyer who specializes in estate litigation, says any parent considering a joint account should document their intentions and provide copies of this documentation to multiple trusted individuals. Melville suggests opening up a new account with just enough money to cover regular expenses. "Set up most of your bills to be paid automatically from that account or provide cheques to the other individual on that account, but watch out for two things," he advises. "Don't let your joint account holder set up a line of credit and make sure there are no overdrafts on this account."

D'Amour says an even better alternative is to use a power-of-attorney document that precisely spells out your intentions and which powers you're granting and which ones you choose to limit. At least with a POA there is a legal requirement for accountability.

Melville warns every adult should have a plan in place. “Often people don’t take the initiative until there is a medical problem or a cognitive deficit kicks in, and then it becomes too difficult or too late.”